THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 19474 of 2006

10-04-2007

Between:-

M/s. Muslim Youth
Rep., by its Organiser
Shaik Abdul Salam,
R/o Near Shanthi Theatre,
Chirala, Prakasam district.

Petitioner

And

Government of Andhra Pradesh,
Rep., by its Secretary to Government,
Municipal Administration & Urban Development Department,
Secretariat, Hyderabad and two others.

Respondents

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Oral order:

The second respondent by an inter-office memo dated
29-06-2006 informed the third respondent that the specified approved work slips for the DCP works were cancelled due to certain irregularities noticed at the time of inspection of the works at Chirala. The second respondent has also intimated the third respondent that the necessary measurement books five in number received from the third respondent are returned for further action.

The petitioner seeks a declaration and direction

that the action of the respondents "…in not taking further action in terms of the Memo No. 238/Chirala/DCP/DB/JTOE/2006 dated 29-06-2006 issued by the 2nd respondent as illegal and arbitrary and consequently direct the respondents to prepare and submit work slips after personal inspection of the works pertaining to improvements of Burial Ground at Jayanthipet and construction of compound wall and Aramakshethram at Chirala and finalize the bills…". That is the scope of the writ petition.

The petitioner claims to be the unemployed Muslim youth organization which was allotted the work of making improvements to burial ground at Jayanthipet, construction of compound wall and Aramshetram and filling the sand in low lying areas. The work slips were cancelled under the impugned inter-office letter of the third respondent, who directed the third respondent to take further action after receiving the measurement books. The third respondent is also directed by the second respondent to inspect the two works and submit the stated particulars. This administrative direction of the second respondent to the third respondent is sought to be executed in this writ petition.

It is not the province of this Court to execute the orders of a Superintending Engineer addressed to the

Executive Engineer. The Memo issued by the second respondent is not a statutory instrument, which needs to be executed. If the Superintending Engineer cannot commend the fidelity of the Executive Engineer, Mandamus will not energetise the inefficacy of Superintending Engineer. It would be a case of structural flaw in the administrative apparatus. The appropriate remedy for the petitioner is elsewhere. If it is the petitioner's grievance that it has not been paid for the works executed by it, since the work is pursuant to a contract which is non-statutory in nature, the petitioner has to raise a dispute if there is arbitration clause. The petitioner cannot approach this Court under Article 226 of the Constitution of India for resolution of non-public law disputes with the respondents.

For all the aforesaid reasons, no relief as sought could be granted in the writ petition. The writ petition is accordingly dismissed. The petitioner is at liberty to pursue appropriate alternative remedies, except under Article 226 of the Constitution of India. No costs.

GODA RAGHURAM, J

Dated:10-04-2007
Pvks/*